



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB2298

Introduced 1/10/2018, by Sen. Toi W. Hutchinson

#### SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 105/5.878 new

505 ILCS 100/2

from Ch. 5, par. 952

720 ILCS 550/3

from Ch. 56 1/2, par. 703

720 ILCS 550/8

from Ch. 56 1/2, par. 708

720 ILCS 550/15.2 rep.

Creates the Industrial Hemp Act. Provides that a person desiring to grow, cultivate, or process industrial hemp or industrial hemp products must be licensed by the Department of Agriculture. Provides that the application for a license shall include the name and address of the applicant and the legal description of the land area, including Global Positioning System coordinates, to be used to cultivate industrial hemp. Provides that the Department may determine, by rule, the duration of a license and the requirements for license renewal. Preempts home rule powers. Amends the Illinois Noxious Weed Law. Provides that "noxious weed" does not include industrial hemp. Amends the Cannabis Control Act. Provides that "cannabis" does not include industrial hemp. Makes conforming changes in the State Finance Act.

LRB100 16654 SLF 31792 b

1 AN ACT concerning agriculture.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Industrial Hemp Act.

6 Section 5. Definitions. In this Act:

7 "Department" means the Department of Agriculture.

8 "Director" means the Director of Agriculture.

9 "Industrial hemp" means the plant *Cannabis sativa* L. and  
10 any part of that plant, whether growing or not, with a delta-9  
11 tetrahydrocannabinol concentration of not more than 0.3  
12 percent on a dry weight basis that has been cultivated under a  
13 license issued under this Act.

14 Section 10. Licenses.

15 (a) A person desiring to cultivate industrial hemp shall be  
16 licensed by the Department.

17 (b) The application for a license shall include the name  
18 and address of the applicant and the legal description of the  
19 land area, including Global Positioning System coordinates, to  
20 be used to cultivate industrial hemp.

21 (c) The Department may determine, by rule, the duration of  
22 a license and the requirements for license renewal.

1 Section 15. Rules.

2 (a) The application and licensing requirements shall be  
3 determined by the Department and set by rule within 240 days of  
4 the effective date of this Act.

5 (b) The rules set by the Department shall include one  
6 yearly inspection and one yearly surprise inspection of a  
7 licensed industrial hemp cultivation operation.

8 (c) The Department shall adopt rules necessary for the  
9 administration and enforcement of this Act, including rules  
10 concerning standards and criteria for licensure, for the  
11 payment of applicable fees, signage, and for forms required for  
12 the administration of this Act.

13 Section 17. Administrative hearings. Administrative  
14 hearings involving licensees under the Act shall be conducted  
15 under the Department's rules governing formal administrative  
16 proceedings.

17 Section 18. Industrial Hemp Regulatory Fund. There is  
18 created in the State treasury a special fund to be known as the  
19 Industrial Hemp Regulatory Fund. All fees and fines collected  
20 by the Department under this Act shall be deposited into the  
21 Fund. Moneys in the Fund shall be utilized by the Department  
22 for the purposes of implementation, administration, and  
23 enforcement of this Act.

1           Section 19. Immunity. A person employed by the Department  
2 shall not be subject to criminal or civil penalties for taking  
3 any action under this Act when the actions are within the scope  
4 of his or her employment. Representation and indemnification of  
5 Department employees shall be provided to Department employees  
6 as set forth in Section 2 of the State Employee Indemnification  
7 Act.

8           Section 20. Hemp products. Nothing in this Act shall alter  
9 the legality of hemp or hemp products that are presently legal  
10 to possess or own. To the extent that the Compassionate Use of  
11 Medical Cannabis Pilot Program Act, and its rules, regulate  
12 products marketed as CBD medicinal products, that Act and its  
13 rules control the production and sale of those products.

14           Section 25. Violation of federal law. Nothing in this Act  
15 shall be construed to authorize any person to violate federal  
16 rules, regulations, or laws. If any part of this Act conflicts  
17 with a provision of the federal laws regarding industrial hemp,  
18 the federal provisions shall control to the extent of the  
19 conflict.

20           Section 30. Home rule. The regulation and licensing of  
21 persons to grow, cultivate, process, possess, sell, or purchase  
22 industrial hemp or industrial hemp related products are

1 exclusive powers and functions of the State. These powers and  
2 functions shall not be exercised concurrently, either directly  
3 or indirectly, by any unit of local government, including home  
4 rule units, except as otherwise provided in this Act. This  
5 Section is a limitation of home rule powers and functions under  
6 subsection (h) of Section 6 of Article VII of the Illinois  
7 Constitution.

8 Section 895. The State Finance Act is amended by adding  
9 Section 5.878 as follows:

10 (30 ILCS 105/5.878 new)

11 Sec. 5.878. The Industrial Hemp Regulatory Fund.

12 Section 900. The Illinois Noxious Weed Law is amended by  
13 changing Section 2 as follows:

14 (505 ILCS 100/2) (from Ch. 5, par. 952)

15 Sec. 2. As used in this Act:

16 (1) "Person" means any individual, partnership, firm,  
17 corporation, company, society, association, the State or any  
18 department, agency, or subdivision thereof, or any other  
19 entity.

20 (2) "Control", "controlled" or "controlling" includes  
21 being in charge of or being in possession, whether as owner,  
22 lessee, renter, or tenant, under statutory authority, or

1 otherwise.

2 (3) "Director" means the Director of the Department of  
3 Agriculture of the State of Illinois, or his or her duly  
4 appointed representative.

5 (4) "Department" means the Department of Agriculture of the  
6 State of Illinois.

7 (5) "Noxious weed" means any plant which is determined by  
8 the Director, the Dean of the College of Agricultural, Consumer  
9 and Environmental Sciences of the University of Illinois and  
10 the Director of the Agricultural Experiment Station at the  
11 University of Illinois, to be injurious to public health,  
12 crops, livestock, land or other property. "Noxious weed" does  
13 not include industrial hemp as defined and authorized under the  
14 Industrial Hemp Act.

15 (6) "Control Authority" means the governing body of each  
16 county, and shall represent all rural areas and cities,  
17 villages and townships within the county boundaries.

18 (7) "Applicable fund" means the fund current at the time  
19 the work is performed or the money is received.

20 (Source: P.A. 99-539, eff. 7-8-16.)

21 Section 905. The Cannabis Control Act is amended by  
22 changing Sections 3 and 8 as follows:

23 (720 ILCS 550/3) (from Ch. 56 1/2, par. 703)

24 Sec. 3. As used in this Act, unless the context otherwise

1 requires:

2 (a) "Cannabis" includes marihuana, hashish and other  
3 substances which are identified as including any parts of the  
4 plant Cannabis Sativa, whether growing or not; the seeds  
5 thereof, the resin extracted from any part of such plant; and  
6 any compound, manufacture, salt, derivative, mixture, or  
7 preparation of such plant, its seeds, or resin, including  
8 tetrahydrocannabinol (THC) and all other cannabinol  
9 derivatives, including its naturally occurring or  
10 synthetically produced ingredients, whether produced directly  
11 or indirectly by extraction, or independently by means of  
12 chemical synthesis or by a combination of extraction and  
13 chemical synthesis; but shall not include the mature stalks of  
14 such plant, fiber produced from such stalks, oil or cake made  
15 from the seeds of such plant, any other compound, manufacture,  
16 salt, derivative, mixture, or preparation of such mature stalks  
17 (except the resin extracted therefrom), fiber, oil or cake, or  
18 the sterilized seed of such plant which is incapable of  
19 germination. "Cannabis" does not include industrial hemp as  
20 defined and authorized under the Industrial Hemp Act.

21 (b) "Casual delivery" means the delivery of not more than  
22 10 grams of any substance containing cannabis without  
23 consideration.

24 (c) "Department" means the Illinois Department of Human  
25 Services (as successor to the Department of Alcoholism and  
26 Substance Abuse) or its successor agency.

1 (d) "Deliver" or "delivery" means the actual, constructive  
2 or attempted transfer of possession of cannabis, with or  
3 without consideration, whether or not there is an agency  
4 relationship.

5 (e) "Department of State Police" means the Department of  
6 State Police of the State of Illinois or its successor agency.

7 (f) "Director" means the Director of the Department of  
8 State Police or his designated agent.

9 (g) "Local authorities" means a duly organized State,  
10 county, or municipal peace unit or police force.

11 (h) "Manufacture" means the production, preparation,  
12 propagation, compounding, conversion or processing of  
13 cannabis, either directly or indirectly, by extraction from  
14 substances of natural origin, or independently by means of  
15 chemical synthesis, or by a combination of extraction and  
16 chemical synthesis, and includes any packaging or repackaging  
17 of cannabis or labeling of its container, except that this term  
18 does not include the preparation, compounding, packaging, or  
19 labeling of cannabis as an incident to lawful research,  
20 teaching, or chemical analysis and not for sale.

21 (i) "Person" means any individual, corporation, government  
22 or governmental subdivision or agency, business trust, estate,  
23 trust, partnership or association, or any other entity.

24 (j) "Produce" or "production" means planting, cultivating,  
25 tending or harvesting.

26 (k) "State" includes the State of Illinois and any state,

1 district, commonwealth, territory, insular possession thereof,  
2 and any area subject to the legal authority of the United  
3 States of America.

4 (1) "Subsequent offense" means an offense under this Act,  
5 the offender of which, prior to his conviction of the offense,  
6 has at any time been convicted under this Act or under any laws  
7 of the United States or of any state relating to cannabis, or  
8 any controlled substance as defined in the Illinois Controlled  
9 Substances Act.

10 (Source: P.A. 89-507, eff. 7-1-97.)

11 (720 ILCS 550/8) (from Ch. 56 1/2, par. 708)

12 Sec. 8. It is unlawful for any person knowingly to produce  
13 the cannabis sativa plant or to possess such plants unless  
14 production or possession has been authorized pursuant to the  
15 provisions of Section 11 ~~or 15.2~~ of the Act. Any person who  
16 violates this Section with respect to production or possession  
17 of:

18 (a) Not more than 5 plants is guilty of a Class A  
19 misdemeanor.

20 (b) More than 5, but not more than 20 plants, is guilty of  
21 a Class 4 felony.

22 (c) More than 20, but not more than 50 plants, is guilty of  
23 a Class 3 felony.

24 (d) More than 50, but not more than 200 plants, is guilty  
25 of a Class 2 felony for which a fine not to exceed \$100,000 may

1 be imposed and for which liability for the cost of conducting  
2 the investigation and eradicating such plants may be assessed.  
3 Compensation for expenses incurred in the enforcement of this  
4 provision shall be transmitted to and deposited in the  
5 treasurer's office at the level of government represented by  
6 the Illinois law enforcement agency whose officers or employees  
7 conducted the investigation or caused the arrest or arrests  
8 leading to the prosecution, to be subsequently made available  
9 to that law enforcement agency as expendable receipts for use  
10 in the enforcement of laws regulating controlled substances and  
11 cannabis. If such seizure was made by a combination of law  
12 enforcement personnel representing different levels of  
13 government, the court levying the assessment shall determine  
14 the allocation of such assessment. The proceeds of assessment  
15 awarded to the State treasury shall be deposited in a special  
16 fund known as the Drug Traffic Prevention Fund.

17 (e) More than 200 plants is guilty of a Class 1 felony for  
18 which a fine not to exceed \$100,000 may be imposed and for  
19 which liability for the cost of conducting the investigation  
20 and eradicating such plants may be assessed. Compensation for  
21 expenses incurred in the enforcement of this provision shall be  
22 transmitted to and deposited in the treasurer's office at the  
23 level of government represented by the Illinois law enforcement  
24 agency whose officers or employees conducted the investigation  
25 or caused the arrest or arrests leading to the prosecution, to  
26 be subsequently made available to that law enforcement agency

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6 assessment. The proceeds of assessment awarded to the State  
7 treasury shall be deposited in a special fund known as the Drug  
8 Traffic Prevention Fund.

9 (Source: P.A. 98-1072, eff. 1-1-15.)

10 (720 ILCS 550/15.2 rep.)

11 Section 910. The Cannabis Control Act is amended by  
12 repealing Section 15.2.